Supreme Court, U.S.
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No.

In The

Supreme Court of the United States

STUART CITRIN
Petitioner,

v.

MARLENE F. BOREY,
Respondent.

On Petition for Writ of Certiorari to the
Supreme Court of Florida

PETITION FOR A WRIT OF CERTIORARI

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Pro Se

QUESTIONS PRESENTED

Whether this honorable Court is reviewing a petition from George W. Bush, Albert Gore, or Stuart Citrin, this Court aspires to be fair, just, equitable, and thorough and accurate in its judicial review -- whether the case before this Court is lofty or mundane.

Three questions are presented:

1. Whether disentitlement of due process by the courts can be arbitrarily, capriciously applied within court decisions, in egregious, blatant violation of the United States Constitution and the XIV Amendment?

2. Whether a petition for a Writ of Mandamus to a State Supreme Court to reinstate a dismissed Appeal by a District Court of Appeal can be denied, when the State Supreme Court premises its denial on a claimed Supreme Court of Florida precedent case completely without applicability, and directly contrary to the record before it?

3. Whether the Supreme Court of Florida violated the applicable standard of review, and accordingly, Citrin's procedural due process rights when it relied on a claimed Supreme Court of Florida precedent case, sanctioning disentitlement, thereby superseding and conflicting relevant decisions of the Supreme Court of the United States, which disfavors too free a recourse foreclosing claims on the merits?

TABLE OF CONTENTS

	Page
Questions Presented	i
Table of Contents	ii
Table of Cited Authorities	iii
Table of Appendices	iv
Opinions Below	1
Statement of Jurisdiction	1
Constitutional Provision Involved	1
Statement of the Case	1
Reasons for Granting the Petition	2
Conclusion	4

TABLE OF CITED AUTHORITIES

Page

Cases

Degan v. United States, 517 U.S. 820 (1996) 2, 3
Hovey v. Elliott, 167 U.S. 409 (1897) 3
Huffman v. State, 813 So. 2d 10 (Fla. 2000) 3

TABLE OF APPENDICES

Page

Appendix A – Opinion Of The Supreme Court Of Florida, dated June 22, 2006 ..... 1a

Appendix B – Order Of The Supreme Court Of Florida, dated November 29, 2006 ..... 2a

Appendix C – Constitutional Provision Involved . 3a

OPINIONS BELOW

The initial opinion of the Supreme Court of Florida, dated June 22, 2006, denying the Petition For Writ of Mandamus is reprinted at App. la. The denial of Petitioner's Motion for Rehearing of Order Denying Writ for Mandamus, dated November 29, 2006, is reprinted at App. 2a.

STATEMENT OF JURISDICTION

The decision and orders of the Supreme Court of Florida were entered on June 22, 2006, and November 29, 2006. This Petition is timely under Supreme Court Rule 13.5, because Honorable Justice Thomas, on March 1, 2007, extended the time to and including April 28, 2007 [Application No 06A832] This Court has jurisdiction under 28 U.S.C § 1257 (1).

CONSTITUTIONAL PROVISION INVOLVED

U.S. Constitution Amend. XIV, § 1.
[Reproduced in Appendix C to the Petition]

STATEMENT OF THE CASE

Standard of Review

When reviewing this Petition, this Court must give deference to requesting the Index on the original Record On Appeal from the Circuit Court Of The Seventeenth

Judicial Circuit In And For Broward County Florida, Civil Action, and the docket sheets and record of the District Court Of Appeal Of The State Of Florida Fourth District.

It is the entire Official Record that will conclusively, with clarity and definitiveness, show whether the rule of law and due process have been justly applied to this case, or have been violated.

Inter alia, the courts erred by voiding Citrin's Quickclaim Deed in Ex Parte proceeding, and relying on two erroneous affidavits in direct conflict with each other, and another erroneous affidavit fraudulent: whereby the notary, on the Quickclaim Deed, had perjured himself, stating he didn't know the witnesses, whereas they were his own employees.

In Citrin's objection to Partition Sale – of his beloved, late mother, Ceil Citrin's modest two bedroom condominium by court ordered auction, and it's sale at half of the comparative market value – his pleadings were wrongfully struck, and trial court failed to have any mediation, consider affirmative defenses, or afford the defendant to take discovery, take depositions, present evidence and testimony, present witnesses, present argument or law in support of said affirmative defenses, and therefore denied due process to Citrin, and was erroneous, arbitrary, capricious, abused discretion, and was in violation of his protected constitutional rights.

REASONS FOR GRANTING THE PETITION

This case presents significant procedural and due process issues at a time that is ripe for review by this Court – since its unanimous decision in *Brian J. Degen v. The United States*, 517 U.S. 820 (1996) – to clarify the scope,

reaches, and parameters of Fourteenth Amendment doctrines.

Moreover, granting this Petition is especially warranted, given that nowhere – throughout the entire Record of this case – from the Circuit Court of The Seventeenth Judicial Circuit, Broward County, Florida [L.T. Case No.: 04-704 (08)], to the District Court of Appeal of the State Of Florida Fourth District [Case No.: 4D04-4678], does the record show – within these root cases – of any, whatsoever, abuse of the judicial process, disobedience, or any sanctioning, or disallowing of further filings of post-dismissal relief.

Accordingly, the citing of *Huffman v. State,* 813 So. 2d 10 (Fla. 2000) by the Supreme Court of Florida to deny my Petition for Writ of Mandamus and reinstatement of my dismissed appeal – wherein there was no judicial review of the record, no argument in law or on merits of the case considered [4D04-4676] – was unwarranted. (*Huffman* held that petitioner *Huffman* had no right to mandamus if he abused the judicial process to the point if the lower courts sanctioned him by prohibiting further filings for post-conviction relief in a criminal case.)

Justice favors determination on the merits and not on default. See *Hovey v. Elliot,* 167 U.S. 409 (1897).

And in *Degen* this Court recognized (517 U.S. at 828):

> It remains the case, however, that the sanction of disentitlement is most severe and so could disserve the dignitary purposes for which it is invoked. The dignity of the court derives from the respect accorded its judgments. That respect is eroded, not enhanced, by too free a recourse to rules foreclosing consideration of claims on the merits.

> There was no necessity to justify the rule of disentitlement in this case, to strike Degen's filing and to grant judgment against him would be an excessive response to the concerns here advanced.

I, Petitioner Stuart Citrin, have compelling, meritorious issues, and I plead for this Court's wisdom and judicial review, and, finally, my day in court.

CONCLUSION

For all the foregoing reasons, petitioner respectfully requests that the Supreme Court grant review of this matter.

Respectfully submitted,

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APPENDIX A – OPINION OF THE SUPREME COURT OF FLORIDA DATED JUNE 22, 2006

SUPREME COURT OF FLORIDA

THURSDAY, JUNE 22, 2006
CASE NO.: SC05-1382
Lower Tribunal No.: 4D04-4676

STUART CITRIN vs. MARLENE F. BOREY, ET AL.
Petitioner Respondent

As petitioner has failed to demonstrate a clear legal right to reinstatement of his appeal in Case No. 4D04-4676, the petition for writ of mandamus is denied. See Huffman v. State, 813 So. 2d 10, 11 (Fla. 2000) (holding that in order to be entitled to a writ of mandamus, the petitioner must show that he has a clear legal right to performance of the requested act, that the respondent has an indisputable legal duty to perform that act, and that no other adequate remedy exists).

WELLS, ANSTEAD, LEWIS, QUINCE and BELL, JJ., concur.

A True Copy
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Seal Supreme Court Of
The State Of Florida

s/ Thomas D. Hall
Clerk, Supreme Court

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Served

APPENDIX B – ORDER OF THE SUPREME COURT OF FLORIDA DATED NOVEMBER 29, 2006

SUPREME COURT OF FLORIDA

WEDNESDAY, NOVEMBER 29, 2006
CASE NO.: SC05-1382
Lower Tribunal No.: 4D04-4676

STUART CITRIN vs. MARLENE F. BOREY, ET AL.
Petitioner Respondent

Petitioner's "Motion for Rehearing of Order Denying Writ for Mandamus" and "Motion to Supplement" are hereby denied.

Respondent's motion to strike is hereby denied.

LEWIS, C.J., and WELLS, ANSTEAD, QUINCE and BELL, JJ., concur.

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Test

Seal Supreme Court Of
The State Of Florida

s/ Thomas D. Hall
Clerk, Supreme Court

Mc
Served

APPENDIX C – CONSTITUTIONAL PROVISION

> Section 1. All persons born or naturalized in the United States and subject to jurisdiction thereof are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. CONST. amend. XIV, § 1.